IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 890 of 1997

Between:

1. S.A. Quadri, S/o. S.W. Quadri,

   Occ: Systems Programmer, R/o. Hyderabad

2. K. Chandra Sekharaiah, S/o. K. Pullaaiah,

   Occ: Lecturer, R/o. Hyderabad

3. K. Kondal Rao, S/o. K. Krishna Rao,

   Occ: Computer Operator, R/o. Hyderabad

4. K. Venkateshwara Rao, S/o. K. Ramaiah

   Occ: Lecturer, R/o. Hyderabad

5. C.S. Ramakrishna, S/o. C. Sharvaiah,

   Occ: Computer Operator, R/o. Hyderabad

6. T. Subramanyam, S/o. T. Buchivenkaiah,

   Occ: Systems Programmer, R/o. Hyderabad

7. M. Jaisree, D/o. V. Govid Rajulu,

   Occ: Computer Operator, R/o. Hyderabad.

8. S. Durga Bhavani, W/o. Narsaiah,

   Occ: Lecturer, R/o. Hyderabad

9. M. Aruna Kumari, W/o. N. Babu Rao,

   Occ: Key Punch Operator, R/o. Hyderabad.

   (All the petitioners are working in the Computer Centre & Computer Science and Engineering Department, Jawaharlal Nehru Technological University, Hyderabad)

..... PETITIONERS

AND

1. Jawaharlal Nehru Technological University, rep. by its Registrar, Mahaveer Marg, Hyderabad.

2. The Government of A.P., rep. by Principal Secretary Finance and Planning Department, Secretariat, Hyderabad.

(R2 impleaded as per Court order dt. 24.12.1997 in W.P.M.P.No.37436 of 1997)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to direct the respondent herein to pay arrears of salary to the petitioners herein in the Revised Pay Scales (UGC) of 1986 for the period from the date of appointment of the petitioners to 31.03.1990 with bank rate interest and costs by the issuance of the writ, order or direction essentially in the nature of writ of mandamus by holding that the action of the respondent in not granting the monetary benefit to the petitioners herein in the Revised Pay Scales (UGC) of 1986 with effect from the date of appointment of the petitioners to 31.03.1990 as illegal, arbitrary, bad, irrational, illogical and violative of Articles 14,16, 21 and 39(d) of the Constitution of India.

Counsel for the Petitioners: MR.P.V. SANJAY KUMAR

Counsel for the Respondent No.1: MR. C.KODANDA RAM

Counsel for the Respondent No.2: G.P. FOR FINANCE AND PLANNING

The Court made the following ORDER :

This writ petition is filed by the petitioners praying for issuance of writ of mandamus declaring the inaction of the respondent-University in not granting the University Grants Commission (hereinafter referred to as “UGC”) scales w.e.f. 1986, as illegal, arbitrary and without jurisdiction and violative of articles 14 and 16 of the Constitution of India.

2 . Though this writ petition was originally filed by nine petitioners, except the seventh petitioner all other petitioners are not prosecuting the writ petition. Therefore, with reference to the rest of the petitioners, the writ petition is dismissed.

3 . With reference to the seventh petitioner, she was appointed as Computer Operator by the respondent-University, in pursuance of the notification issued by it in the year 1984. After regular selection, the respondent-University, while appointing the petitioner, issued appointment order showing that her appointment was on consolidated basis of Rs.800/- per month, though in the notification, the respondent-University had advertised two posts of Computer Operators, to which, the UGC scales are applicable. It is also stated by the petitioner that though two posts were sanctioned by the UGC, the respondent-University has selected and appointed six computer operators. One of the six computer operators had left the service. Out of the five, only two were given UGC scales salary and rest of the three were continued on consolidated basis initially and thereafter they were put on State Government scales after regularization from 28.02.1987. Further, by proceedings of the University, dated 30.05.1995, the petitioner's services were regularised w.e.f 28.02.1987, showing her date of appointment as 28.02.1986, though it was wrongly shown in the order of the University as 28.02.1987. Thereafter, on the representations of the petitioner and other Computer Operators, in fact, even a Committee was appointed to look into the representations and thereafter, the Committee recommended for placing the computer operators, who were placed on the State scales, on the UGC scales. Further, in view of the fact that the UGC granted

Rs.5.00 lakhs to each of the three colleges, the services of the petitioner and other two operators were put on UGC scales w.e.f. 01.04.1990. However, the petitioner and others made representations seeking implementation of the UGC scales with effect from the original date, on which the UGC scales were implemented i.e., 01.01.1986. Thereafter, the respondent-University issued proceedings dated 19.12.1990, conveying that question of payment of arrears from 01.01.1986 to 31.03.1990 will be decided after approval by the UGC and the State Government. But the grievance of the petitioner is that though University had promised stating that after the approval of the UGC and the State Government, it would be decided, it did not bother to get the approval either from the UGC or from the State Government. Therefore, the petitioners compelled to approach this Court.

4. A counter-affidavit has been filed on behalf of the respondent-University disputing and denying the contentions. It is admitted that the petitioner was appointed in pursuance of the notification issued by the University where two posts of computer

operators were notified showing that the said computer operators are eligible for the benefit of UGC scales. But, however, in order to take advantage of the sanction that was proposed by the UGC, the University had appointed six Computer Operators for three colleges run under the Management of the respondent-University. However, one of them had left the service. When only two posts were sanctioned originally by the UGC, the UGC scales were extended to only those two candidates. With reference to the other three candidates, they were appointed originally on consolidated basis and later State Government scales were extended. Further, even the benefit of UGC scales were also extended from 01.04.1990. With reference to the arrears, on the promise of implementation of the UGC scales from the original date of appointment, though, the University had issued proceedings in December, 1990 that the said issue would be considered after approval of the UGC and the State Government, the respondent-University was not able to get any approval from the UGC and State Government. Therefore, it is not in a position to implement the said promise of extending the UGC Scales from the original date of appointment.

5 . The learned counsel for the petitioner contended that out of five Computer Operators appointed on the very same date, under the same selection process, two were given the UGC Scales while three were not given the same benefit from the date of their appointment. The said action of the University is clearly illegal and discriminatory and, therefore, sought for a direction to the respondent-university to extend the benefit from the date of their original appointment or at least from the date of their regular appointment.

6. The learned counsel for the respondent also contended that the University has no separate funds to extend the benefit of UGC scales to the petitioner, unless it is approved and sanctioned either by the UGC or by the State Government. As long as there is no sanction and approval by the State Government or UGC, the petitioner is not entitled for the benefits.

7. Heard both sides and considered the material available on record.

8. The issued to be considered is whether the petitioner is entitled for the extension of the benefit of UGC scales from the date of original appointment or at least from the date of regularization.

9. It is admitted that the petitioner appeared for selection against the notification issued by the University for selection and appointment of two Computer Operators,

who were eligible for the extension of the UGC Scales as per the notification. But, however, while selecting and appointing, the University had appointed six Computer Operators as against two posts notified and approved by the UGC. Out of the six, one Computer Operator had left the services and the rest of the five were continuing. Though the respondent-University extended the benefit of UGC scales to two out of five computer operators appointed by it, three were originally appointed on consolidated basis and later State Government Scales were extended to them from 28.02.1987. The UGC scales were extended to these three computer operators also from 01.04.1990 on the premise that the UGC sanctioned a sum of
Rs.5.00 lakhs to each of the three colleges functioning under the University. But the grievance of the petitioner is that she is entitled for the benefit of the extended UGC scales from the date of original appointment. This is contested by the respondent-University on the ground that there is no sanction or approval of either by the UGC or by the State Government. In the absence of sanction, the University is not entitled to extend the said benefit. But, a perusal of the proceedings dated 19.12.1990 shows that the University had given the impression that these Computer Operators would be paid the arrears after obtaining approval from the UGC and the State Government. When this issue was raised by the learned counsel for the petitioner, the respondent–University was directed to answer the same showing steps that it had taken to get the approval of either the UGC or by the State Government. The respondent–University was not able to place any material, which clearly shows that the respondent–University did not bother to pursue the matter either with the UGC or State Government for obtaining the necessary approval to effect the payment of arrears by extending the UGC scales to the petitioner from the date of original appointment or from the date of regularization. When the respondent did not take any steps to get the approval from the University and the State Government though it had promised as early as in the year 1990, the benefit of extension cannot be denied to the petitioner on the ground that the University did not take any steps to get the approval.

10. In fact, according to the petitioner, the action of the respondent-University is a discriminatory inasmuch as two of the five appointed in the same selection process at the same time are extended the benefit of UGC scales from the date of the original appointment, while others are not extended from the date of the original

appointment, but only extended from 01.04.1990. The said action is clearly discriminatory and violative of Articles 14 and 16 of the Constitution of India. It was also stated that the petitioner was never informed that she was selected and appointed not against the notified vacancy. Therefore, the action of the respondent-University is clearly illegal and arbitrary.

11. Under the above circumstances, the writ petition is allowed, directing the respondent-University to extend the benefits of UGC Scales to the petitioner also from the date of regularization if not from the date of original appointment and pay the arrears within a period of three months from the date of receipt of a copy of this order either by obtaining the approval from the UGC or the State Government or even otherwise also.

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S. Ananda Reddy, J

Date: 17.09.2004

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That Rune Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday the Seventeenth day of September two thousand and four

To

1. The Registrar, Jawaharlal Nehru Technological University, Mahaveer Marg, Hyderabad.
2. The Principal Secretariat, Government of A.P., Finance and Planning Department, Secretariat, Hyderabad.
3. Two CCs to G.P. for Finance and Planning, High Court of a.P. Buildings, Hyderabad(OUT)
4. Two CD Copies